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10/054,083	01/18/2002	Yun Ling	42390P13118	3639

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[REDACTED] EXAMINER

LEVI, DAMEON E

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2841

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/054,083	LING ET AL.
	Examiner Dameon E Levi	Art Unit 2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 July 2003.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .                    6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-4,7,8 are rejected under 35 U.S.C. 102(e) as being anticipated by Arbogast et al US Patent 6305966.**

Regarding claim 1, Arbogast et al discloses an assembly comprising: a connector having a slot therein to receive an edge portion of a card;(for example, see element 500, Figs 6,7) and a lever mechanism movably coupled to the connector and having an engaging surface adapted to apply a lever force on the card during insertion of the card in the slot of the connector (for example, see element 116,118,512,Figs 6,7). Moreover, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in a patentable sense. In re Hutchison 69 USPQ 138.

**Regarding claim 2**, Arbogast et al discloses wherein the engaging surface is adapted to contact a contact surface on the card (for example, see element 512, Figs 5-7)

**Regarding claim 3**, Arbogast et al discloses wherein the engaging surface includes a surface defined by a protuberance (for example, see element 118, Figs 5-7)

**Regarding claim 4**, Arbogast et al discloses wherein the card is a memory card (for example, see elements 506, Figs 5-7)

**Regarding claim 7**, Arbogast et al discloses wherein the lever mechanism includes a contact surface adapted to be moved from a first open position to a second closed position and wherein the contact surface moves a greater distance than a distance traveled by the engaging surface when the lever mechanism is moved from the first open position to the second closed position (for example, see Fig 7). Moreover, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in a patentable sense. *In re Hutchison* 69 USPQ 138.

**Regarding claim 8**, Arbogast et al discloses an ejector attached to a base end of the lever mechanism to remove from the slot the card inserted therein when the lever mechanism is moved from a closed position to an open position (for example, see elements 114, Figs 5-8)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5,6,9-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arbogast et al US Patent 6305966 in view of Yin US Patent 5889656.**

**Regarding claim 5,** Arbogast et al discloses the instant claimed invention except wherein the lever mechanism includes a lever pivotally coupled with the connector via a pivot positioned near a base end of the lever

Yin discloses an assembly wherein the lever mechanism is a lever pivotally coupled with the connector via a pivot positioned near a base end of the lever(for example, see Figs 1-4C)

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a lever pivotally coupled with the connector as taught by Yin in the assembly as taught by Arbogast et al as such arrangements are well known accommodations for insertion and removal of memory cards (see Yin)

**Regarding claim 6,** Arbogast et al discloses wherein the engaging surface is located on a middle portion of the lever (for example, see Figs 5-7)

**Regarding claim 9,** Arbogast et al discloses a locking mechanism coupled with a lever to lock the lever a closed position(for example, see element 120, Fig 2)

**Regarding claim 10,** the functional and operation recitation that "wherein the locking mechanism adapted to emit an audible sound as it locks into place" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified

function, as set forth in 35 USC 112, 6<sup>th</sup> paragraph, and must be supported by recitation of the claim of sufficient structure to warrant the presence of the functional and operational language. Moreover, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in a patentable sense. *In re Hutchison* 69 USPQ 138.

**Regarding claims 11-13**, the methods disclosed therein are deemed as inherent in the assembly of the claimed apparatus of the preceding claims as fully met by the accompanying references, ( Arbogast et al, Yin ) and are subsequently rejected .

**Regarding claim 14**, Arbogast et al discloses an assembly comprising:

a connector having a slot therein to receive a card(for example, see element 500, Figs 6,7)

a lever mechanism having a first end, a base end, and a middle portion, the lever mechanism having a contact surface movable by a user between a first position and a second position; an ejector attached to the base end of the lever; an engaging surface attached to a surface of the lever mechanism above the ejector; (for example, see element 116,118,114,122,Figs 6,7)

Yin et al discloses an assembly comprising:

a first case attached to a first end of the connector, the first case having first and second opposing planar surfaces defining a channel therebetween, and having a hole formed in each planar surface(for example, see elements 16A,16B, 26V, Figs 1,2)

and a first and second pivots attached to a first and second sides of the lever, respectively, proximate the middle portion of the lever mechanism (for example, see element 28T, Figs 1,2)

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the first casing having a channel formed and having a hole, as well as, pivots formed in the lever and assembly as taught by Yin in the assembly as taught by Arbogast et al for the purpose of accommodating the circuit card therein, as well as, to pivot the lever away from the assembly to facilitate easy removal of the same by a user (see Yin)

**Regarding claim 15,** Arbogast et al discloses the instant claimed invention except wherein the lever mechanism is pivotally coupled with the connector by insertion of the first pivot in the hole in the first planar surface of the first case and insertion of the second pivot in the hole in the second planar surface of the first case  
Yin discloses an assembly wherein the lever is pivotally coupled with the connector by insertion of the first pivot in the hole in the first planar surface of the first case and insertion of the second pivot in the hole in the second planar surface of the first case  
(for example, see Figs 1,2)

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have pivotally coupled the lever in the manner as taught by Yin in the assembly as taught by Arbogast et al as such arrangements are known in the art(see Yin)

**Regarding claim 16**, Arbogast et al discloses wherein the engaging surface a surface defined by a protuberance (for example, see element 118, Figs 5-7)

**Regarding claim 17**, Arbogast et al discloses wherein the ejector includes a protuberance to engage a bottom edge of the card (for example, see element 114, Figs 5-7)

**Regarding claim 18**, Arbogast et al discloses wherein the lever mechanism is made of plastic (for example, see column 2, lines 20-25)

**Regarding claim 19**, Arbogast et al discloses a printed circuit board attached to a bottom surface of the connector (for example, see, element 600, Figs 5-7)

***Response to Arguments***

Applicant's arguments filed 07/28/2003 have been fully considered but they are not persuasive. In response to Applicant's argument that the prior art of record does not disclose a lever mechanism including an engaging surface adapted to apply a lever force on the card, the Examiner points out that the limitations recited therein are present in the prior art. The pertinent claims require a connector and a lever mechanism which are present in the prior art of record. Additionally, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in a patentable sense. *In re Hutchison* 69 USPQ 138.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dameon E Levi whose telephone number is (703) 305-0426. The examiner can normally be reached on Mon.-Fri. (9:00 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0058.

Dameon E Levi  
Examiner  
Art Unit 2841  
  
DAVID MARTIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

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September 4, 2003